

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	Conf. #: 5766
Richard L. Weiner, et al.)	
)	Art Unit: 1647
Serial No. 10/714,067)	
)	Examiner: Christine J. Saoud
Filed: November 14, 2003)	
)	
For: NOVEL ANTIANGIOGENIC PEPTIDE)	
AGENTS AND THEIR THERAPEUTIC)	
AND DIAGNOSTIC USE)	

RESPONSE TO RESTRICTION REQUIREMENT

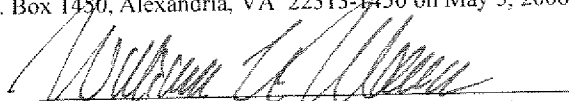
Mail Stop: Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Applicants respectfully submit that the Restriction Requirement issued on April 5, 2006 was based on Claims 1-26 presented in the original application. However, Applicants had submitted a preliminary amendment on November 14, 2003, which introduced two new claims 27-28. Accordingly, Claims 1-28 should have been pending after entry of the preliminary amendment. Apparently, Claims 27-28 were not considered in this recently issued Restriction Requirement.

Nevertheless, in response to the Restriction Requirement mailed April 5, 2006, Applicants provisionally elect with traverse Group I which encompasses Claims 1-5, drawn to

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 William L. Warren – Reg. No. 36,714

polypeptides. The restriction requirement is respectfully traversed on the basis that the examination of each of the four groups of claims would not be a serious burden on the Patent Office because of their close technological relationship. In order for a restriction requirement to be appropriate, there must be a serious burden on the Patent Office to search all of the inventions, and the inventions must be independent or distinct as claimed. Applicants respectfully submit that except Group IV, Claim 25, drawn to a method of diagnosis using the same polypeptides as claimed in Group I, all other groups of claims depend from and/or include all the limitations of either Claim 1 or its dependent claims. For the foregoing reason, Applicants respectfully elect with traverse Group I (Claims 1-5).

Rejoinder Practice:

Applicants further submit that Claims 21-24 and 26 in Group III, drawn to methods of treating disorders, depend from and include all the limitations of claims in Group I. These claims in Group III shall be entered and rejoined with Group I claims if Group I claims are found allowable. Applicants will amend these method claims in Group III during prosecution to maintain dependency on or include the limitations of Group I claims.

Species Election:

Applicants provisionally elect with traverse polypeptide of SEQ ID NO:24. The restriction requirement for species election is respectfully traversed on the basis that search all species would not be burdensome on the Patent Office. Applicants respectfully submit that polypeptides of SEQ ID NOs:18, 24 and 30 are homologous and belong to the same protein

family, sharing several structural and biological features (*See also* Goffin et al., Endocrine Reviews, Vol. 17, No.4, pp 385-410, 1996, stating that prolactin (PRL), growth hormone (GH), and placental lactogen (PL) share several structural and biological features; they are all constituted of 190-200 amino acid residues and the molecular weight of the mature proteins is about 22-23KD; and the 3D structure of these proteins is very similar and is composed of four anti-parallel alpha-helices). The polypeptides of SEQ ID Nos:18, 24 and 30 have the same length, *i.e.*, 133-134 amino acid residues, and the same size, *i.e.*, 16K; they are derived from human proteins, and also represent the N-terminus of each of the parent protein. Most importantly, all three polypeptides of SEQ ID Nos:18, 24 and 30 have anti-angiogenic activity, in contrast to their respective parent proteins. Furthermore, all these polypeptides: human placental lactogen hPL (SEQ ID NO:18), human growth hormone hGH (SEQ ID NO:24), and human variant growth hormone hGH-V (SEQ ID NO:30) are claimed in Claim 1. For the foregoing reason, Applicants respectfully elect with traverse polypeptide of SEQ ID NO:24.

Furthermore, with respect to a restriction requirement for electing a species of disorders, Applicants provisionally elect with traverse "angiogenic disease" in Claim 21. The restriction requirement for species election is respectfully traversed on the basis that searching all species of disorders, such as "tumor formation or growth" and "placenta vascularization disorder" would not be burdensome on the Patent Office because all these disorders are forms of "angiogenic disease." For the foregoing reason, Applicants respectfully elect with traverse an "angiogenic disease" as a species of disorder.

The foregoing is submitted as a full and complete response to the Restriction Requirement mailed April 5, 2006. If there are any issues which can be resolved by telephone conference, the Examiner is invited to call the undersigned attorney at (404) 853-8081. No additional fees are believed to be due, however, the Commissioner is hereby authorized to charge any additional fees due or credit any overpayment to Deposit Account No. 19-5029.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "William L. Warren", is written over a horizontal line.

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